

State of Utah
Administrative Rule Analysis

NOTICE OF PROPOSED RULE

- * The agency identified below in box 1 provides notice of proposed rule change pursuant to Utah Code Section 63G-3-301.
- * Please address questions regarding information on this notice to the agency.
- * The full text of all rule filings is published in the Utah State Bulletin unless excluded because of space constraints.
- * The full text of all rule filings may also be inspected at the Division of Administrative Rules.

DAR file no:

42807

Date filed:

4-17-2018

State Admin Rule Filing Id:

Time filed:

		Agency No.		Rule No.		Section No.
Utah Admin. Code Ref (R no.):	R	156	-	70a	-	
Changed to Admin. Code Ref. (R no.):	R		-		-	

1. Agency: Commerce/Division of Occupational and Professional Licensing

Room no.:

Building:

Heber M. Wells Building

Street address 1:

160 East 300 South

Street address 2:

City, state, zip:

Salt Lake City UT 84111-2316

Mailing address 1:

PO Box 146741

Mailing address 2:

City, state, zip:

Salt Lake City UT 84114-6741

Contact person(s):

Name:

Phone:

Fax:

E-mail:

Larry Marx

801-530-6254

801-530-6511

lmarx@utah.gov

(Interested persons may inspect this filing at the above address or at the Division of Administrative Rules during business hours)

2. Title of rule or section (catchline):

Physician Assistant Practice Act Rule

3. Type of notice:

New ___; Amendment XXXX Repeal ___; Repeal and Reenact ___

4. Purpose of the rule or reason for the change:

The Division and Physician Assistant Licensing Board are proposing amendments to conform the rule to new Subsections 58-70a-102 and 58-70a-501 as enacted by S.B. 162 during the 2017 Legislative General Session.

5. This change is a response to comments from the Administrative Rules Review Committee.

No XXX Yes ___

6. Summary of the rule or change:

R156-70a-102: Removes unnecessary definitions of "locum tenens" and "on-site supervision". R156-70a-501: Changes the physician/physician assistant working relationship and delegation of duties to comply with S.B. 162, by: (1) removing the requirement for physicians to cosign all medical chart records for patients; and (2) including the requirement of quality review in place of chart review.

7. Aggregate anticipated cost or savings to:

A) State budget:

Affected: No ☐; Yes ☒ XXX

R156-70a-102: These proposed changes remove unnecessary definitions, to ensure that the rule only encompasses current practice in the profession. Accordingly, these amendments are not expected to impact state government revenues or expenditures. R156-70a-501: These proposed amendments apply to persons required to be licensed as a physician assistant in Utah, and will also indirectly affect those who employ licensed physician assistants. This will include certain state government entities acting as businesses. However, because these proposed amendments only conform the rule to practices already required by S.B. 162 (2017), the Division estimates that there will be no impact on state agencies over and above that included in the Fiscal Note for S.B. 162 (2017), available online at <https://le.utah.gov/lfa/fnotes/2017/SB0162.fn.pdf>. No other fiscal impact to the state is expected, beyond a minimal cost to the Division of approximately \$75 to print and distribute the rule once the proposed amendments are made effective.

B) Local government:

Affected: No ☒ XXX Yes ☐

R156-70a-102: These proposed changes remove unnecessary definitions, to ensure that the rule only encompasses current practice in the profession. Accordingly, these amendments are not expected to impact local government revenues or expenditures. R156-70a-501: These proposed amendments apply to persons required to be licensed as a physician assistant in Utah, and will also indirectly affect those who employ licensed physician assistants. This will include certain local government entities acting as businesses. However, because these proposed amendments only conform the rule to practices already required by S.B. 162 (2017), the Division estimates that there will be no impact on local governments over and above that included in the Fiscal Note for S.B. 162 (2017), available online at <https://le.utah.gov/lfa/fnotes/2017/SB0162.fn.pdf>.

C) Small businesses ("small business" means a business employing fewer than 50 persons)

Affected: No ☒ XXXX Yes ☐

R156-70a-102: These proposed changes remove unnecessary definitions, to ensure that the rule only encompasses current practice in the profession. Accordingly, these amendments are not expected to impact small business revenues or expenditures. R156-70a-501: These proposed amendments apply to persons required to be licensed as a physician assistant in Utah, and will also indirectly affect those who employ licensed physician assistants. There are currently 1,589 physician assistant licensees in Utah; it is estimated that approximately two-thirds of these are employed by small business facilities such as private or group physician practices or medical centers (NAICS 621399). However, because these proposed amendments only conform the rule to practices already required by S.B. 162 (2017), the Division estimates that there will be no impact on any of these small businesses who employ physician assistants, over and above that included in the Fiscal Note for S.B. 162 (2017), available online at <https://le.utah.gov/lfa/fnotes/2017/SB0162.fn.pdf>.

D) Persons other than small businesses, businesses, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an agency):

Affected: No ☒ XXXX Yes ☐

R156-70a-102: These proposed changes remove unnecessary definitions, to ensure that the rule only encompasses current practice in the profession. Accordingly, these amendments are not expected to impact other persons. R156-70a-501: These proposed amendments apply to persons required to be licensed as a physician assistant in Utah, and will also indirectly affect those who employ licensed physician assistants. However, because these proposed amendments only conform the rule to practices already required by S.B. 162 (2017), the Division estimates that there will be no impact on physician assistants or any persons who may employ them over and above that included in the Fiscal Note for S.B. 162 (2017), available online at <https://le.utah.gov/lfa/fnotes/2017/SB0162.fn.pdf>.

8. Compliance costs for affected persons:

R156-70a-102: These proposed changes remove unnecessary definitions, to ensure that the rule only encompasses current practice in the profession. Accordingly, these amendments are not expected to impact affected persons. R156-70a-501: These proposed amendments apply to persons required to be licensed as a physician assistant in Utah, and will also indirectly affect those who employ licensed physician assistants. However, because these proposed amendments only conform the rule to practices already required by S.B. 162 (2017), the Division estimates that there will be no compliance costs for affected persons over and above that included in the Fiscal Note for S.B. 162 (2017), available online at <https://le.utah.gov/lfa/fnotes/2017/SB0162.fn.pdf>.

9. A) Comments by the department head on the fiscal impact the rule may have on businesses:

I have reviewed the proposed filing for the above-referenced rule and considered the fiscal impact that the rule may have on businesses. I direct that my comments about the rule's fiscal impact on businesses be inserted at the appropriate place on the notice form to be filed with the Office of Administrative Rules for publication of this rule making action. Amendments to Section R156-70a-102 remove unnecessary definitions in the rule. Amendments to Section R156-70a-501 change the physician/physician assistant working relationship and delegation of duties to comply with S.B. 162 (2017) by (1) removing the requirement for physicians to cosign all medical chart records for patients; and (2) including the requirement of quality review in place of chart review. The deletion of certain definitions from R156-70a-102 has no fiscal impact or benefit. The R156-70a-502 amendments apply to persons required to be licensed as a physician assistant in Utah, and will also indirectly affect those who employ licensed physician assistants. There are currently 1,589 physician assistant licensees in Utah. It is estimated that approximately two-thirds of these are employed by small business facilities, such as private or group physician practices or medical centers (NAICS 621399). However, because these proposed amendments only conform the rule to practices already required by S.B. 162 (2017), the Division estimates that there will be no impact on or benefit to small businesses who employ physician assistants, and no impact on physician assistants who own or operate their own offices, over and above that included in the fiscal note for S.B. 162 (2017), available online at <https://le.utah.gov/lfa/fnotes/2017/SB0162.fn.pdf>.

B) Name and title of department head commenting on the fiscal impacts:

Francine A. Giani, Executive Director

10 This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws.

State code or constitution citations (required) (e.g., Section 63G-3-402; Subsection 63G-3-601(3); Article IV):

Section 58-70a-101

Subsection 58-1-106(1)(a)

Subsection 58-1-202(1)(a)

11 This rule adds, updates, or removes the following title of materials incorporated by references (a copy of materials incorporated by reference must be submitted to the Division of Administrative Rules; if none, leave blank):

	First Incorporation	Second Incorporation
Official Title of Materials Incorporated (from title page)		
Publisher		
Date Issued		
Issue, or version		
ISBN Number (optional)		
ISSN Number (optional)		
Cost of Incorporated Reference		
Action: Adds, updates, or removes		
(If this rule incorporates more than two items by reference, please attach additional pages)		

12 The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the Utah State Bulletin. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until 5:00 p.m. on (mm/dd/yyyy):

06/14/2018

B) A public hearing (optional) will be held:

On (mm/dd/yyyy):

At (hh:mm AM/PM):

At (place):

13 This rule change may become effective on (mm/dd/yyyy):

06/21/2018

NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After the date designated in Box 12(A) above, the agency must submit a Notice of Effective Date to the Division of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.

14 Indexing information -- keywords (maximum of four, in lower case, except for acronyms (e.g., "GRAMA") or proper nouns (e.g., "Medicaid"); may not include the name of the agency.

licensing

physician assistants

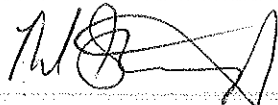
15 Attach an RTF document containing the text of this rule change (filename):

R156-70a.pro

To the agency: Information requested on this form is required by Sections 63G-3-301, 302, 303, and 402. Incomplete forms will be returned to the agency for completion, possibly delaying publication in the *Utah State Bulletin*, and delaying the first possible effective date.

AGENCY AUTHORIZATION

Agency head or designee, and title:



Date
(mm/dd/yyyy)
: 4/17/2018

Appendix 1: Regulatory Impact Summary Table*

Fiscal Costs	FY 2018	FY 2019	FY 2020
State Government	\$0	\$0	\$0
Local Government	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Person	\$0	\$0	\$0
Total Fiscal Costs:	\$0	\$0	\$0
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Government	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits:	\$0	\$0	\$0
Net Fiscal Benefits:	\$0	\$0	\$0

*This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts for State Government, Local Government, Small Businesses and Other Persons are described above. Inestimable impacts for Non-Small Businesses are described below.

Appendix 2: Regulatory Impact to Non-Small Businesses:

Section R156-70a-102: These proposed changes remove unnecessary definitions, to ensure that the rule only encompasses current practice in the profession. Accordingly, these amendments are not expected to impact non-small business revenues or expenditures.

Section R156-70a-501: These proposed amendments apply to persons required to be licensed as a physician assistant in Utah, and will also indirectly affect those who employ licensed physician assistants. There are currently 1,589 physician assistant licensees in Utah; it is estimated that approximately one-third of these may be employed by Utah's 91 non-small business facility hospitals or HMO (health maintenance organization) medical centers (NAICS 622110). However, because these proposed amendments only conform the rule to practices already required by S.B. 162 (2017), the Division estimates that there will be no impact on non-small businesses who employ physician assistants, over and above that included in the Fiscal Note for S.B. 162 (2017), available online at <https://le.utah.gov/lfa/fnotes/2017/SB0162.fn.pdf>.

Agency Head Sign Off Here: The head of the Department of Commerce, Francine A. Giani, has reviewed and approved this fiscal analysis

R156. Commerce, Occupational and Professional Licensing.

R156-70a. Physician Assistant Practice Act Rule.

R156-70a-102. Definitions.

In addition to the definitions in Title 58, Chapters 1 and 70a, as used in this rule:

(1) "Full time equivalent" or "FTE" means the equivalent of 2,080 hours of staff time for a one-year period. [

~~(2) "Locum tenens" means a medical practice situation in which one physician assistant acts as a temporary substitute for the physician assistant who regularly will or does practice in that particular setting.~~

~~(3) "On-site supervision", as used in Section R156-70a-501, means the physician assistant will be working in the same location as the supervising physician.]~~

R156-70a-501. Working Relationship and Delegation of Duties.

In accordance with Section 58-70a-501, the working relationship and delegation of duties between the supervising physician and the physician assistant are specified as follows:

(1) The supervising physician shall provide supervision to the physician assistant to adequately serve the health care needs of the practice population and ensure that the patient's health, safety and welfare will not be adversely compromised. ~~[The degree of on-site supervision shall be outlined in the Delegation of Services Agreement maintained at the site of practice.]~~ Physician assistants may authenticate with their signature any form that may be authenticated by a physician's signature.

(2) There shall be a method of immediate consultation by electronic means whenever the physician assistant is not under the direct supervision of the supervising physician.

(3) The ~~[supervising]~~ physician and physician assistant shall review ~~[and co-sign]~~ sufficient ~~[numbers of]~~ practice information which may include patient charts and medical records to ensure that the patient's health, safety, and welfare will not be adversely compromised. The Delegation of Services Agreement, maintained at the site of practice, shall outline specific parameters for quality review that are appropriate for the working relationship.

(4) A supervising physician may not supervise more than four full time equivalent (FTE) physician assistants without the prior approval of the division in collaboration with the board, and only for extenuating circumstances with a written request with justification. The supervising physician shall ensure that patient health, safety, and welfare is not adversely compromised by supervising more physician assistants than the physician can competently supervise.

KEY: licensing, physician assistants

Date of Enactment or Last Substantive Amendment: [December 22,

2016]2018

Notice of Continuation: November 3, 2016

Authorizing, and Implemented or Interpreted Law: 58-70a-101; 58-1-106(1)(a); 58-1-202(1)(a)